

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7375

**Respondents: Barrera for Congress
and Rogelio Guerra, as Treasurer
("the Committee")¹**

Complaint Receipt Date: April 30, 2018

Response Date: May 17, 2018

EPS Rating:

**Alleged Statutory/
Regulatory Violations: 52 U.S.C. §§ 30102(e)(1); 30103(a), (c); 30104(a)(1)
11 C.F.R. §§ 101.1(a); 102.1(a); 102.2(a)(2); 104.1(a)**

The Complaint alleges that the Committee failed to file certain disclosure reports in the 2016 election cycle and has not reported any 2018 cycle activity.² It further alleges that Barrera and his 2018 Committee failed to file an amended Statement of Candidacy or an original Statement of Organization, despite having activity that likely exceeded the registration and reporting thresholds. Respondents assert that the Committee is now in compliance and that its disclosure reports are up to date.³ The Respondents state that discrepancies in its filings may be attributable to a change in treasurers.⁴

¹ Barrera is a 2018 candidate for the 27th congressional district of Texas. Barrera was a congressional candidate for the same seat in 2016, and the Committee has been Barrera's principal campaign committee for both election cycles.

² These reports include the 2016 Post-General and Year-End Reports, the 2017 April, July, and October Quarterly Reports, and 2017 Post-General and Year-End Reports.

³ The Committee filed the six 2016-2017 disclosure reports referred to in the Complaint on May 1, 2018, and since then has filed all of the disclosure reports due in the 2017-2018 election cycle. The Committee reports a total of \$9,696.18 in contributions and \$10,202.04 in expenditures for the 2017-2018 election cycle.

⁴ Within fifteen days of becoming a candidate, the candidate must designate a principal campaign committee by filing a Statement of Candidacy. 52 U.S.C. §§ 30101(2)(A), 30102(e)(1); 11 C.F.R. §§ 100.3(a)(1), 101.1(a). The designated principal campaign committee is required to report any change in information previously submitted on its Statement of Organization within ten days of the change. 52 U.S.C. § 30103(c); 11 C.F.R. § 102.2(a)(2). Barrera filed a Statement of Candidacy and designated the Committee as his principal campaign committee for the 2018 election on April 28, 2018 — two days before the FEC received the Complaint — and the Committee filed an amended Statement of Organization on the same day. The Committee's disclosure reports show that the Committee had received more than \$5,000 in contributions no later than March 31, 2018. See Barrera for Congress 2018 April Quarterly Report at 3. Accordingly, Barrera's 2018 Statement of Candidacy was at least thirteen days late, since it should have been filed no later than April 15, 2018.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the low amount of activity,⁵ and the Committee's remedial actions, we recommend that the Commission dismiss the complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

7.18.18
Date

BY: 
Stephen Gura
Deputy Associate General Counsel

⁵ The FEC Reports Analysis Division ("RAD") confirms that, due to the low level of activity, none of the Committee's reporting errors meet the thresholds for RAD's policies for referrals to the Office of General Counsel, Alternative Dispute Resolution, or Administrative Fines program.

